

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Edward Tsigel	Team: Squad #4	CCRB Case #: 202006450	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/23/2020 11:05 AM	Location of Incident: Southeast corner of Pierrepont Street and Clinton Street	Precinct: 84	18 Mo. SOL 3/23/2022	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 09/23/2020 7:08 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 09/23/2020 7:08 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Gargano	24508	938534	084 PCT
2. SGT Peter Ahn	01234	948594	084 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Sorely Nunez	08976	957907	084 PCT
2. POM Steven Merslich	27149	960939	084 PCT
3. POF Jamie Williamson	05873	955666	084 PCT
4. DTS Samantha Sturman	03035	947521	084 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Peter Ahn	Discourtesy: Sergeant Peter Ahn spoke discourteously to § 87(2)(b)	
B.POM Michael Gargano	Discourtesy: Police Officer Michael Gargano spoke discourteously to § 87(2)(b)	
C.POM Michael Gargano	Abuse: Police Officer Michael Gargano forcibly removed § 87(2)(b) to the hospital.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

### Case Summary

On September 23, 2020, § 87(2)(b) filed this complaint on the CCRB website on behalf of an unknown individual named § 87(2)(b).

On September 23, 2020, at 11:05 AM, § 87(2)(b) observed § 87(2)(b) standing on the Southeast corner of Pierrepont Street and Clinton Street in Brooklyn. Officers, including Sergeant Peter Ahn and Police Officer Michael Gargano, both of the 84<sup>th</sup> precinct, responded to the scene. Sgt. Ahn and PO Gargano spoke discourteously towards § 87(2)(b) (**Allegations A and B – Discourtesy – § 87(2)(g)**). PO Gargano forcibly removed § 87(2)(b) to the hospital (**Allegation C – Abuse of Authority – § 87(2)(g)**).

§ 87(4-b), § 87(2)(g)

No arrests were made, or summons issued as a result of this incident.

The CCRB received four photographs and two cell phone videos (IA 17-22) from § 87(2)(b) and six Body Worn Camera (BWC) videos of the incident (IA 35-40).

### Findings and Recommendations

**Allegation (A) Discourtesy: Sergeant Peter Ahn spoke discourteously to § 87(2)(b)**

**Allegation (B) Discourtesy: Police Officer Michael Gargano spoke discourteously to § 87(2)(b)**

**Allegation (C) Abuse of Authority: Police Officer Michael Gargano forcibly removed § 87(2)(b) to the hospital.**

On September 23, 2020, at 11:05 AM, § 87(2)(b) (BR 01) saw a crowd of people forming on the intersection of Pierrepont Street and Clinton Street. She approached the crowd and observed § 87(2)(b) standing diagonally across the street on the Southeast corner of Pierrepont Street and Clinton Street. Two police vehicles arrived, and a group of officers approached and spoke to § 87(2)(b). § 87(2)(b) spoke to an unknown female individual in the crowd who told her that she called the police on § 87(2)(b) but did not state why. The officers spoke to § 87(2)(b) for approximately ten minutes, and then an ambulance arrived to the scene. EMTs exited the ambulance, approached § 87(2)(b) and spoke to him for approximately three minutes. § 87(2)(b) was then escorted into the ambulance by the EMTs and the ambulance left the scene.

The investigation determined § 87(2)(b)'s first name from available BWC footage but was unable to identify him or obtain a statement from him. The CCRB received negative results for an aided report request (BR 02). The CCRB could not obtain the event details because they are unavailable (BR 02). There are no relevant documents available which can provide further context or identification.

PO Gargano (BR 03) stated that he was on patrol when an unknown individual ran up to him and his partner, PO Sorely Nunez, and told them that there was an irate male at Pierrepont Street and Clinton Street. The officers drove to the location and saw § 87(2)(b) yelling at people who walked past him. PO Gargano approached § 87(2)(b) and asked him if everything was okay and if he needed any help. § 87(2)(b) told PO Gargano that he was angry and began yelling at the officers and other pedestrians walking past him. PO Gargano requested back up to the scene for a possible EDP (emotionally disturbed person) and continued speaking with § 87(2)(b). PO Gargano believed that § 87(2)(b) was an EDP because he was incoherent when speaking, and because he was rambling and not properly responding to PO Gargano during their conversation. PO Gargano could not understand § 87(2)(b) when he spoke. There was a large group of bystanders forming at the location which included children from the nearby school. PO Gargano believed that § 87(2)(b) was a threat to the safety of the bystanders because he became aggressive towards people who walked past him by yelling at them. PO Gargano believed that there was potential for something violent to happen involving children or bystanders who could have been startled by § 87(2)(b).

PO Gargano stated that when a radio run is made about a possible EDP, then the dispatcher requests both additional officers for back up, and an ambulance to the location. § 87(2)(b) sat down on the sidewalk and PO Gargano engaged in conversation with him to try to calm him down. A few minutes later four additional officers arrived to the location as back up, including Sgt. Ahn (BR 04), who was the only supervisor on scene. All of the officers waited for the ambulance to arrive for approximately ten minutes. When the ambulance arrived, two EMTs spoke to the officers about what happened and then approached and spoke to § 87(2)(b). The EMTs evaluated § 87(2)(b) and made the decision that he needed to be taken to the hospital. PO Gargano escorted § 87(2)(b) into the ambulance and he was driven to a local hospital. It is unknown which hospital § 87(2)(b) was taken to.

From 0:00 to 6:00 of PO Gargano's BWC (BR 05), PO Gargano speaks to § 87(2)(b) and requests back up and EMS. Between 6:00 and 17:35, additional officers arrive to the scene and PO Gargano continues to speak with § 87(2)(b) while waiting for EMS. At 14:05, PO Gargano says "Fuck is EMS" within earshot of § 87(2)(b). At 17:35, an ambulance arrived to the scene and two EMTs speak with § 87(2)(b). One of the EMTs is heard telling § 87(2)(b) that he needs to go to the hospital. § 87(2)(b) agrees, is escorted into the ambulance, and removed to the hospital.

PO Gargano stated that he said "Fuck is EMS" out of frustration because EMS was talking a long time to arrive. He stated that it was not directed towards § 87(2)(b) and that he did not mean it in an offensive manner.

Sgt. Ahn's BWC (BR 06) is consistent with PO Gargano's BWC and provides an additional angle of the incident. At 1:47, § 87(2)(b) begins to yell at Sgt. Ahn and Sgt. Ahn says, "I got him all fucking worked up" within earshot of § 87(2)(b). Sgt. Ahn could not provide a reason for using the profanity.

**Patrol Guide Procedure 200-02** (BR 07) states that the department is committed to treating every citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a higher standard of integrity than is generally expected of others. **Patrol Guide Procedure 221-13** (BR 08) defines an emotionally disturbed person (EDP) as one who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others. An officer is to request a supervisor and an ambulance to the scene if he believes that there is an EDP present. If the EDP voluntarily agrees to leave then the officer will take them into custody and transport them to the hospital.

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 12).
- Police Officer Michael Gargano has been a member of service for 16 years and has been a subject in 6 other CCRB complaints and 13 allegations, of which 5 were substantiated.
  - 201807436 involved substantiated allegations of threat of force and a discourtesy against PO Gargano. The Board recommended Command Discipline B and the NYPD imposed no penalty.
  - 201910097 involved substantiated allegations of threat of removal to the hospital and 2 discourtesies against PO Gargano. The Board recommended charges and the NYPD has not yet imposed discipline.
  - PO Gargano has had 3 prior substantiations for discourtesies.
- Sergeant Peter Ahn has been a member of service for 11 years and has been a subject in 8 other CCRB complaints and 13 allegations, of which 1 was substantiated.
  - 201607604 involved a substantiated allegation of threat of arrest against Sgt. Ahn. The Board recommended formalized training and the NYPD imposed formalized training.
  - § 87(2)(g)

### **Mediation, Civil, and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- As of September 10, 2021, the New York City Office of the Comptroller has no record of a notice of claim being filed in regards to this incident (BR 13).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 4

Investigator: Edward Tsigel      Inv. Edward Tsigel      9/10/2021  
Signature      Print Title & Name      Date

Squad Leader:   Raquel Velasquez          IM Raquel Velasquez          9/13/2021  

Signature                          Print Title & Name                          Date

Reviewer: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_